

## **Contribution of the European Blind Union to the consultation on COM(2016)287/final**

### **Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities**

All citizens have the right to access products and services, and the denial of this right to person with disabilities is highly discriminatory. Access to the information and knowledge-based society is a basic right of persons with disabilities in order to live independently and participate fully in all aspects of life, in particular education, employment and culture.

The UN Convention on the Rights of Persons with Disabilities (UNCRPD) sets the right to accessibility in Article 9, and the right to “enjoy access to television programmes in accessible format” in Article 30.

Although the Member States of the European Union (EU) pursue their own audiovisual policy, the EU defines some benchmarks involving common interests. *Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities* sets an EU framework including some provisions concerning directly persons with disabilities, which were achieved thanks to the tireless fight of their representative organisations. As a result, article 7 of the Directive was agreed that states that “Member States shall encourage media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability”. In 2015, the Commission started a revision of the AVMSD and asked stakeholders for their opinion. EBU requested to strengthen the accessibility provisions, but unexpectedly and incomprehensibly, in its latest proposal of 25 May 2016, the Commission has deleted article 7.

Like everyone else, blind and partially sighted people watch television and use a range of audiovisual media services. Unlike many others, however, their possibility to do so is substantially hampered by the inaccessibility of these services. In so far as accessibility falls under the scope of the AVMS Directive, this concern touches in particular on “access services” such as audio description.

In the past EBU submitted evidence and comments to inform the legislative process which devised the AVMS Directive. Given the failure of previous non-legislative approaches to achieve fully or even largely accessible audiovisual services in the EU, we were keen to see the Directive make strong legislative requirements for accessibility. Unfortunately, the final AVMS Directive contained a “soft”, non-binding measure. We felt that the wording of article 7 was too weak to significantly improve the level of accessibility of audiovisual media services, and so it has proved.

Therefore, EBU strongly believes that any revised AVMS Directive or similar laws must ensure that AVMS are accessible to blind and partially sighted people. To this end the EU must now make serious and binding requirements on Member States to ensure the full provision of access services.

In 2010 the US 21st Century Communication Video Accessibility Act (CVAA) entered into effect boosting innovation. In Europe, on the contrary, the European Commission has taken the opposite way, explicitly denying the right of persons with disabilities to access AVMS. Instead of strengthening article 7, the Commission decided to refer to the newly proposed European Accessibility Act to set the obligation to make AVMS accessible for persons with disabilities. The proposal on the revision of the AVMS directive has clearly overlooked that the EAA is just a legislative proposal that does not have any certainty of being adopted nor

does it provide any guarantee concerning the accessibility of AVMS. Moreover, even if it is adopted, the discussions at the Parliament, the negotiations in the Council and the transposition at Member States level will take many years.

According to its article 21, the EAA is intended to complement other European regulations such as the Public Procurement directive and the AVMSD, not to replace them. Moreover, it is important to clarify how far other legislative proposals are affected. So far the relationship is not clear, so that there is a risk that provisions on accessibility are lowered or watered down due to the interaction or the overlap of another piece of legislation.

#### About us

The European Blind Union (EBU) is a non-governmental, non profit making European organisation founded in 1984. It is one of the six regional bodies of the World Blind Union, and it promotes the interests of blind people and people with low vision in Europe. It currently operates within a network of 44 national members including organisations from 27 European Union member states, candidate nations and other major countries in geographical Europe